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International Court of Justice

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Official transcript of the International Military Tribunal, in the matter of: The United States of America, the French Republic, The United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics, against Hermann Wilhelm Goering, et al, Defendants, sitting at Nurnberg, Germany, on 30 January 1946, 1000-1245, Lord Justice Lawrence, presiding.

MARSHAL OF THE COURT: May it please the Court, I desire to announce that defendants Kaltenbrunner and Seyss-Inquart will be absent from this morning's session on account of illness.

THE PRESIDENT: Dr. Babel, I understand that you do not wish to cross examine that French witness.

DR. BABEL; That is correct.

THE PRESIDENT: Then the French witness can go home.

M. DUBOST: Thank you, Mr. President.

THE PRESIDENT: M. Dubost, there is one reason that possibly that French witness ought not to go. I think I saw she was moving out of Court. Could you stop her, please? I am afraid she must stay for today.

M. Dubost, are you going to deal with documents this morning?

M. DUBOST: Yes, Mr. President; there will be no witnesses this morning.

THE PRESIDENT: Would you be so good as to give us carefully and slowly the number of the document first, because we have a good deal of difficulty in finding them.

M. DUBOST: Yes, quite, Mr. President.

THE PRESIDENT: And specify, also, so far as you can the book in which they are to be found.

M. DUBOST: With the permission of the Tribunal, we shall continue the exposition of the organization and the way in which the camp functioned.

Document R-80, which I submitted yesterday, showed a double purpose, to make up for lack of labor and to exterminate. R-91, which I submitted yesterday, page 14, of the second document book. Pardon me, 20 and 21 of the second document book. Document RF-285, pages 14, 17, 18 and 19 of the second document book. This document is submitted under number RF-348.

THE PRESIDENT: I am afraid you are going too fast. I had just got as far as R-91 in Document BOok 2, pages 20 and 21.

M. DUBOST: We sto pped at that document, after which we read RF-285, which is on Pages 14, 17, 18 and 19 in your document book.

THE PRESIDENT: RF-285.

M. DUBOST: This document is dated the 17th of December 1942. The result of the document which we read to you yesterday--first paragraph: "For important military reasons, which must not be specified, the Reichsfuehrer SS, the Chief of the German Police --

THE PRESIDENT: (Interposing) You read that yesterday.

M. DUBOST: That is correct, Mr. President.

Page 18, sixth paragraph, on the top of the page:

"Poles who are susceptible of becoming Germans, and prisoners for whom special provisions are made will not be handed over."

Last paragraph, Page 18: "Other explanations will not be required."

This shows the arrests were to obtain labor, with no discrimination, and they considered this labor to be so important that they didn't even bother to register it.

Now, we will show how this labor was utilized. Men were placed, as Balachowsky said yesterday, in factories in Dora, in subterranean caves, and they were there under very unhygienic conditions. The prisoners constructed camps, munitions camps, to supply provisions for Ellrich, Dora and the salt mines of Salsbad.

The Tribunal will read in Document 274, Page 45, at the bottom of the page: "Ravensbruck supplied the Siemens Factories, those of Czechoslovakia, and the work shops in Hanover."

This special labor according to the witness, permitted them to keep secret the manufacture of certain war weapons, such as the V-1 and V-2. Mr. Balachowsky talked to us of the deportees having no contact with the outside world. The labor of deportees permitted them to obtain an output which they could not have obtained from foreign workmen.

The French prosecution will now submit Document R-129 under the number 348, which the Tribunal will find at Page 22 of the second document book. The second paragraph of this document deals with the management of concentration camps: "All economic exploitation which comes within the province of this organization depends on the commander of the camp."

Fifth paragraph: "The commander of the camp is the only one responsible for the work carried out by the workmen. This work "--we underlin

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these words--"this work must, in the true sense of the word, be exhausting so that we can attain the maximum of labor output."

Two paragraphs lower on the page, Number 5: "The duration of the work is not limited. The duration depends on the activity of the camp and the work to be done, and is determined by the camp commander alone."

Last paragraph, page 23 of this book, the four last lines: "The commander must have a technical knowledge in the economic and military domain for a wise and well-advised management over groups of men whom he must obtain to get a maximum potential of labor output."

This document is signed by Pohl, P-o-h-l. It is dated Berlin, 30th of April 1942.

We would like to recall now for the record a document which we have already quoted in relation to the camp of Dora, and which was submitted under the Number RF-140.

We now read from Document 1584 which is in the appendix of your second document book. It is the sixth document in your appended document book, the book appended to Book 2. The document will become Document 349 in the French documentation.

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THE PRESIDENT: Now, wait a minute. You say the sixth document, but it is very difficult to find. Which is the sixth document? 1584, is it?

M. DUBOST: Yes, 1584-PS. This document --

THE PRESIDENT: (Interposing) Wait, M. Dubost, wait.

M. DUBOST: The document is signed by Goering and is addressed to Himmler. The second paragraph establishes in a definite way the responsibility of Goering in the criminal utilization of this deportee labor. We read the second paragfaph of the second page:

"Dear Himmler:

"I ask you to keep at my disposal for the aviation armament the greatest number of prisoners possible, K.Z." This is the intials of the concentration camp prisoners, K.Z. "The experiments made up to the present show that this labor can be used. The situation of the air war makes necessary the transferral of this air industry to a subterranean work shop. On this point the question of work and billeting is particularly devised for prisoners K.Z."

We know then who was responsible for the frightful conditions which the deportees of Dora had. This responsible person is on the defendant's bench.

THE PRESIDENT: You didn't give us the date of that, did you?

M. DUBOST: I didn't see on this document tha date.

THE PRESIDENT: Is that the 19th of February, 1944?

M. DUBOST: On the first page you see the date, the 19th of February, 1944. A letter was addressed to Dr. Braut, referring to a teletype which is annexed or appended and which comes from the Fieldmarshall.

THE PRESIDENT: Is it the second letter, the letter that you read? Is the date of that 19-2-44?

M. DUBOST: It is the 15th of April, 1944.

THE PRESIDENT: And could you tell us what K.Z. means, the two letters, K.Z.?

M. DUBOST: 1584 on the original.

THE PRESIDENT: Yes, I am not talking about that now.

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M. DUBOST: K .Z. refers to concentration camps, camps of concentration.

THE PRESIDENT: For the accuracy of the record, it appears that the letter on the second page is not the 15th of April 1944, but the 14th of February. Is that not so?

M. DUBOST: Yes. It is the 14th of February, 2030 hours. It is a teletype, which was registered the 15th of April, 1944. That was the cause of my error.

THE PRESIDENT: But, M. Dubost, were you submitting or suggesting that this letter showed that the defendant Goering was a party to the experiments which took place, or only to the fact that these prisoners were used for work?

M. DUBOST: We didn't speak of experiments. We spoke of the internment in subterranean camps, as in the camp of Dora, of which Balachowsky spoke yesterday in the first part of his deposition.

THE PRESIDENT: Very well.

M. DUBOST: As far as this will to exterminate of which we have been speaking from early this morning, we would like to establish first by the text of the Document R-91, which we read from yesterday evening at the end of the session. Also, we should like to establish it through statements made by the witnesses who brought you the proof that in all camps the same methods of extermination through work were carried out.

As far as the brutal extermination through gas is concerned, we have the registers and the figures of gases, the quantity of gas to be sent to Auschwitz, which we submit to the Tribunal under the Number RF-350. The Tribunal will find translations at Page 27 of the second document book, document 1553-PS.

We shall point out, moreover, from the French translation of these accounts -- and this must be done to be accurate, if not absolutely faithful to the German text. We shall not read in the fifth line the word "extermination" but the words "to make more healthy".

The testimony of Madame Vaillant Coutourier informed us that these gases were used for the destruction of lice and other parasites and were

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also used to annihilate human beings. And the quantity of gas which was sent and the frequency with which it was sent, as you can see from the great number of bills of lading, proved that the gas was used for a double purpose.

We have the bill of the 14th of February, of the 16th of February, of the 8th of March, of the 13th of March, the 20th of March, the 11th of April, the 27th of April, the 12th of May, the 26th of May, and the 31st of May, which are all submitted as Document Number 350.

THE PRESIDENT: Are you putting in evidence the originals of these other bills to which you refer on this document?

M. DUBOST: I request the court clerk to hand them over to your Honor, and I take advantage of the circumstance to request the Tribunal to examine tentatively this bill. They will observe the quantities of toxic crystals which were sent to Oranienburg and Auschwitz. The quantities of these crystals were considerable.

The bill of 1944, 832 kilograms; also 276, 25 kilos. These toxic crystals were sent, giving a net weight of 555 Kilos or kilograms.

THE PRESIDENT: What is this document that you have just put in?

M. DUBOST: The 30th of April, 1944.

THE PRESIDENT: I am not asking the date. What I want to know is what is the authority for this document. It comes, does it not, from one of the committees set up by the French Republic?

M. DUBOST: No, Mr. President. The document is the American document which wasin the American Archives, under the number 1564-PS.

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THE PRESIDENT: M. Dubost, this note at the bottom of Document 1553-PS was not on the original put-in by the United States, was it?

M. DUBOST: No, Mr. President, but you have under your eyes all the originals which the clerk of the court has just handed you.

THE PRESIDENT: Unless you have an affidavit identifying these originals the originals don't prove themselves. You have got to prove these documents which you have just handed up to us either by a witness or by an affidavit. The documents are documents, but they don't prove themselves.

M. DUBOST: These documents were gathered by the American Army and filed in the Archives for the Nurnberg trial. I got them in the archives or records of the American delegation, and I consider them to be as authentic as all the other documents which were filed by my American colleagues in their records and archives. It was captured unquestionably by the American Army.

THE PRESIDENT: There are two points, M. Dubost. The first is that in the case of the original exhibit, 1553-PS, it was certified, we imagine, by an officer of the United States. These documents which you have now drawn our attention to are not so certified by anyone as far as we have been able to see. Certainly we can't take judicial notice of these documents, which are private documents, and therefore, unless they are read in court they cannot be put in evidence. That can all be rectified very simply by such a certificate or by an affidavit annexing these documents and showing that they are analogous to the document which is the United States exhibit.

M. DUBOST: They are all documents of the United States, and they are all filed in the Archives of the United States in the American delegation under the number 1553.

THE PRESIDENT: The American exhibit 1553-PS has not yet been submitted to the Tribunal and the Tribunal is of the opinion that they cannot take judicial notice of this exhibit without any further certification, and they think that some short affidavit identifying the document must be made.

M. DUBOST: We will request our American colleagues, the American prosecution, to furnish this affidavit. We believed, of course, that this document, which was classified in the archives, would naturally be established.

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This will for extermination, moreover, does not need to be proved by this document. It is established amply by the witnesses and testimony which we have submitted. The witness Boix said that no one could come out of this camp alive. There was only one possible exit and that was by the chimney of the smokestack of the crematorium.

Document F-321, page 49, at the top of the page, page 36 of the German text, relates that the only explanation which the SS made was that no captive should ever come out of this camp alive.

On page 179, the next to the last paragraph of the French text, page 152 of the German text, the SS said that there was only one way of coming out of the camp, and that was through the chimney of the smokestack.

On page 174, page 148 of the German text, the last paragraph, before the title "Gassing and Cremation":

"This camp had for its essential purpose the extermination of the greatest possible number of men. It had the name of a destruction camp. This destruction, this extermination of the internees, assumed two different forms. One was progressive; the other was brutal."

In the second document book which the Tribunal has under its eyes, pages 28, 29, and 30, we find the account of a parliamentary delegation from the British Parliament in the month of April 1945, from which we read the third paragraph on page 29:

"Although the work of clearing out the camp was continued for more than a week before our visit, we immediately felt, and we continued to feel, an impression of horrible uncleanliness within the camp."

Page 30, below the dashes, next to the last paragraph, third line of this paragraph:

"However, we would like to conclude stating that according to our opinion which has been well weighed and is unanimous, founded on valid proofs, a policy of continuous starvation and inhuman brutality was carried out at Buchenwald for a long time, and that such camps caused humanity to reach the lowest degree of degredation that it ever was able to attain."

Likewise, there is the report of a committee including General Eisenhower on pages 31, 32, and 33 of the same document book. We read the second paragraph

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of the French extract, page 32 in your document book:

"The purpose of this camp was extermination."

In the first paragraph on the top of the page:

"The means of extermination were blows, torture, over-population of the dormitories, illness."

Page 32, at the top, in the second document book --

THE PRESIDENT: Will you go a little bit slower over these

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numbers. You said, first of all, 31, and then 32. It came to us as 32. It is quite impossible to follow you unless we know the right page.

You have read 31 now, haven't you? Have you read 31?

M. DUBOST: I said to the Tribunal that the document which we now submit and read is Document L-159 which is the second document book, including pages 31, 32 and 33, and I read from page 31, "Atrocities and other conditions in the concentration camps in Germany. Report of a committee made up of General Eisenhower under the Chief of Staff, General George Marshall, to the Congress of the United States, treating atrocities and other conditions in concentration camps in Germany."

THE PRESIDENT: I asked you whether you had read the part you wished to read on page 31.

M. DUBOST: Yes, Mr. President, I read the title, and then, from page 32.

THE PRESIDENT: Where are you going to read on page 32?

M. DUBOST: Second paragraph.

THE PRESIDENT: On page 32?

M. DUBOST: Page 32, second paragraph.

"The purpose of this camp was extermination, and the means of extermination" -

THE PRESIDENT: (Interposing): M. Dubost, that is page 31.

M. DUBOST: I beg your pardon. I have a sheet which is not numbered in that way. I request the Tribunal to excuse me. I had a text in front of me which was paginated in another fashion, another way.

We finish then, page 31, the first paragraph:

"The purpose of this camp was extermination, and the means of extermination were blows, torture, overcrowding in the dormitories, and illness. The result of these measures was heightened by the fact that prisoners were obliged to work in an armament factory adjoining, which manufactured guns, small firearms, and so on."

The means which were used to carry out this progressive extermination are numerous and multiple. We are going to submit documents which have just

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been handed to us, which we have not communicated to the defense, and which constitute printed extracts from Auschwitz concerning the number of blows which could be administered to the internees or prisoners. These documents will be handed over to the defense for their criticism. They have just been given to us. I am not able to authenticate their origin. They were presented to us under the character of having certain authenticity. We think they are authentic. Photostats of the documents were given to the defense attorneys.

THE PRESIDENT: The Tribunal thinks that they can't admit these documents at present. It may be that after you have more time to examine the matter you may be able to offer some evidence which authenticates the documents, but we can't admit the documents simply upon your statement that you believe them to be genuine.

M. DUBOST: Moreover, everything they found in the camps prepared progressive extermination of the people who were interned there. All were under a hard regime. It was a very cold climate. Some were in subterranean caves. Their living conditions have been brought out by the witnesses which we have brought before the Tribunal.

As to the conditions under which the internees lived, they had to live hours bare while they were being registered and waiting to be tattooed. Everything tended to cause the rapid death of those who were to be interned in these camps. A good number of these internees were subject to a regime which was even more serious. The description was given to the Tribunal by the American prosecution when they submitted Document US R-243 dealing with the regime of the Nacht und Nebel, the NN. We don't think it is necessary to go back over the description of this regime. We shall submit only a new document which shows with what rigor the regime of the NN was applied to our compatriots. This document is the second of the first document book. It is included under the number 278-B. It comes from the Armistice Commission, the German Armistice Commission of Wiesbaden and shows that upon repeated protests of the French population and even of the government of Vichy against the conditions which surrounded the internees of the NN camps, no measure was ever undertaken against these camps.

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We shall now read from paragraph 2 which explains why the reply was not made:

"This fact was provided for and anticipated by the Fuehrer. The opinion was that intimidation of the population would not be obtained by the sentence of death, but only by measures which would leave the population uncertain as to their fate."

This document becomes MF-353.

We will not dwell further on the description of the blocks and the hygienic conditions of the internees in the block. Four witnesses who all came from different camps have pointed out to us that the hygienic conditions were similiar. The blocks were as overcrowded in all these camps. We know that everywhere the water was provided in insufficient quantities. Everywhere, deportees slept two or three in beds of 60 to 70 meters wide. We know that everywhere the linen was never renewed or was in very bad condition. We know likewise the conditions in which were carried out the services of the camp. Several witnesses, physicians, have testified to this fact before your Tribunal.

The Tribunal will find confirmation of the testimony in Document F-121, page 119, page 98 of the second document book. We read the last line of page 100 of your document book:

"Because of lack of water the prisoners were obliged to satisfy their thirst by seeking water which was found in the water closets."

Page 119 of Document F-321, page 103 in the German text, third paragraph:

"The surigical service was insured by a German who was a surgeon from Berlin. This was a prisoner, a common criminal, who killed his patient on each operation."

Two paragraphs lower:

"The management of the block was carried out by two Germans, a man without scruples who carried out the surgical operations on the spot, with a certain Asch who was a mason by trade."

According to the statements by our witnesses, who in their capacity as doctors and physicians, cared for patients in these infirmaries in the camps, it seems superfluous to multiply the evidence in our documents.

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When the labor was exhausted from work, when it seemed impossible that they could ever recover, selections were made which separated or screened out those who could not be utilized, with the purpose of exterminating them through gassing, as related by our first witness, Madame Vaillant Coutourier, or by intra-cardiac injections, as related by two other French witnesses, Dr. Dupontand Balachowsky.

This system of screening was carried out in all the camps, and it carried out general orders, proof of which we find in document R-91, in the first document book. The Tribunal will find the testimony written by Blaha, testimony received here the 9th of January, and which recalls the 15th document of the first document book, the testimony of Blaha, that 3000--

THE PRESIDENT (interposing): Is it 3249-PS?

M. DUBOST: That is the document, Mr. President; yes, the document which you have under your eyes, the 6th page.

THE PRESIDENT: You have already given this as evidence, haven't you?

M. DUBOST: I am not going to read it. I merely wish to recall this for the record because it enters into the body of proofs which I wish to submit.

THE PRESIDENT: We don't want affidavits by witnesses who have already given evidence. This affidavit, PS-3249, has not been put in, has it?

M. DUBOST: No, I am merely recalling the testimony which was given at the session, at the public hearing. We shall not submit this document, Mr. President. We are just utilizing this document to remind the Tribunal that Blaha pointed out the wretched conditions existing in the infirmaries, the miserable hygienic conditions in the infirmaries.

To all these miserable, wretched conditions, you must add this exhausting labor, for all the deportees were forced to carry out the hardest labor. We know that they worked in these work

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commandos and in the workshops. We know, according to the witnesses, that the duration of this work was a minimum of 12 hours, and it was often prolonged according to the whim of the camp commander.

The document R-129, from which we have already read, is the document of Pohl, addressed to Himmler, pages 22, 23 and 24 of the second document book, on the subject that the working hours must be utilized. This work was carried out, according to testimony, in water, in mud, in subterranean caves in Dora, for instance, in quarries in Mauthausen.

In addition to this exhausting work, which was exhausting in itself, the deportees underwent the ill-treatment of the SS and the Kapo or trustees, such as blows, being bitten by dogs.

Our document RS-274, pages 74 and 75, brings out the official testimony. Is it necessary to read to the Tribunal from this document, which is an official document to which we constantly refer, which has been translated into German and into English?

THE PRESIDENT: I don't think you need read it. Give us the pages.

M. DUBOST: I thank you, Mr. President.

This same document, page 77 and page 78, informs us that all the prisoners were subjected, even under the most difficult conditions from the point of view of hygiene and health, to the work which they were forced to do. There was no quarantine for them even in periods of great epidemics.

The French document 392 which we have submitted and which is in the first document book, confirms the testimony of Madame Vaillant Coutourier. It is the twelfth document of your first document book, third paragraph, page 4.

"Received about half a litre of herb tea; this when we were awakened. The supervisor, who was at the door where we were to wash, gave us blows with a cudgel. Shortly afterwards there was an epidemic of typhus."

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At the end of the third paragraph and the beginning of the next paragraph are the conditions in which the prisoners were taken to factories.

In the fifth paragraph:

"We were provided with wooden shoes which in a few days caused us wounds. These wounds brought about infections which brought death to many."

We now pass to the reading of document R-129, pages 22, 23 and 24 in the second document book, and which we submit under the number--

THE PRESIDENT (interposing): One moment: the Tribunal will adjourn now for fifteen minutes.

(Whereupon a recess was taken from 11.25 hours to 12.15 hours.)

THE PRESIDENT: Mr. Dubost, the Tribunal has been considering the question of the evidence which you have presented on the concentration camps, and they are of opinion that you have proved the case for the present, subject, of course, to any evidence which may be produced on behalf of the Defendants, and of course subject also to your right under Article 24-E of the Charter to bring in rebutting evidence, should the Tribunal think it right to admit such evidence. They think, therefore, that it is not in the interests of the trial, which the Charter directs should be an expeditious one, that further evidence should be presented at this stage on the question of concentration camps, unless there are any particular new points about the concentration camps to which you have not yet drawn our attention; and, if there are such points, we should like you to particularize them before you present any further evidence upon them.

M. DUBOST: I thank the Tribunal for this statement. I do not conceal from the Tribunal the fact that before I can make a choice of the points on which it seems necessary to insist, I shall need a few moments. With the authorization of the Tribunal, we shall pass

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to the examination of the situation of war prisoners.

THE PRESIDENT: Mr. Dubost, possibly you could, during the adjournment, consider whether there are any particular points, new points, upon concentration camps which you wish to draw our attention to, and present them after the adjournment, in the meantime proceeding with some other matter.

M. DUBOST: The 1 o'clock recess?

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THE PRESIDENT: Yes, that is what I meant.

M. DUBOST: We shall, therefore, provisionally consider as establishe the proof that Germany in its internment camps, in its concentrations camp pursued a policy tending to annihilate its enemies -- to exterminate them at the same time as it created asystem of terror that it exploited to facilitate the realization of its political aims.

Another aspect of this terroristic policy, this policy of extermination, appears when one studies the war crimes committed by Germany on the persons of war prisoners. These crimes we shall present to you answer two motives: To debase as much as possible the captives; to relax their energy; to demoralize them; and to bring them to doubt the merit of the cause for which they had fought; and to despair of the future of their country. The second motive was to bring about the disappearance of those among them who, by their antecedents or by the signs which they had given since their capture, showed themselves as inadaptable to the new order the Nazis intended to set up.

With this aim, Germany multiplied inhuman treatments with the aim of debasing the men who were soldiers and who had surrendered, trusting the military honor of the army to which they surrendered.

The transfers of prisoners were carried out under the most inhuman conditions. The men, badly fed, were obliged to make long trips on foot, exposed to all kinds of punishments, and struck down when they were tired and ceased to follow the column. No shelter was provided for the halting places, and no feeding. The evidence for this is given in the report on the evacuation of the column that left Seygand om the 8th of February, 1945, at 12:30 p.m., a document which the Tribunal will find in the annex to the document book on the prisoners. This document has already been submitted by my colleague, Mr. Herzog, under No. 46.

THE PRESIDENT: Where shall we find it?

M. DUBOST: I shall read the second annex, last line.

THE PRESIDENT: I haven't got the document, I am afraid, Mr. Dubost, if you could tell us which book it is in.

M. DUBOST: It is in the document book submitted by Mr. Herzog. The order

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was given to the French Secretariat to hand these documents to you. I am surprised that this has not yet been done. Will the Tribunal excuse me? I shall not be able to use this document now. The document was communicated and handed over at the time of the declaration and statement of Mr. Herzog. The Tribunal will find it in Mr. Herzog's document book. It is the report on the evacuation of the column that went from Seygand the 8th of February, 1945. We hav e not other copies.

THE PRESIDENT: Can you identify the book of documents in which it is, so that we can find it thereafter, and then pass on to the next document?

M. DUBOST: It is the document book which was handed to the Tribunal by my colleague, Mr. Herzog, when he gave his presentation on the question of labor.

THE PRESIDENT: And how is it marked?

M. DUBOST: It is No. U. K. 78, submitted under No. 46. A column of 1, 570 British soldiers, including soldiers of all categories, started on this date toward Spremberg.

THE PRESIDENT: Possibly this is the first document in your document book which has been handed up to us.

M. DUBOST: Right, Mr. President. I shall not read you now the document on the evacuation of the Seygand camp, since the Tribunal doesn't have the copy before it. I pass to document U.K. --

THE PRESIDENT: I am just telling you that I rather think this may be the document, if it begins with "1,357 English prisoners of war." Does it begin in that way?

M. DUBOST: The document, Mr President, which you have before you has to do with the transfer of the British prisoners. The one which I wanted to read to you had to do with the transfer of French prisoners. I think that it is not necessary that I lengthen this discussion by showing theTribunal that the British and the French prisoners proceeded in the same fashion. I shall, therefore, read the British document, which is the first in your book of documents:

"1,357 war prisoners of all ranks left on foot on the 28th of January, 1945 Stalag Luft 3 in three columns, and walked in stages of about 17 to 31 kilometer per day to Sprembert, whence they were sent to Luckenwalde.

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The food, the water and the medical furnishings were all more or less non-existent. During the transport three prisoners at least collapsed and had to remain at Muskau" -- on the bottom of the page, three lines before the end, T-31 -- "They covered a distance of thirty-one kilometers to Muskau. Three men fell at this point, Lieutenants Kelly and Wise, and Warrant Officer Burton -- they had to be left at the hospital in Muskau." Page 2, at the end of the document: "In the course of the march" -- the last paragraph -- "aside from the Red Cross package which had been already mentioned, the only rations distributed to the men were half a piece of bread and a ration of barley soup. The supply of water is described as left to chance. There were fifteen who disappeared. The treatment of the Franco-Belgian column was even more rigorous. The camps were organized in a manner which was contrary to all the rules of hygiene. The prisoners were piled up in a very narrow space. They had no heat or water. They were put thirty or more men in a room.

The deposition of Mr. Boudoux is to be found in the report of the deported prisoners which has been submitted to you likewise in the course of the statement of Mr. Herzog. I suppose that the Tribunal has kept its documents of last Thursday --

THE PRESIDENT: We have kept these documents, but if we had them on the Bench before us you would not be able to see us.

M. DUBOST: Such observations can be found in the Red Cross report.

Berger, who, under Himmler, was charged, from the 1st of October 1944, with prisoner-of-war camps, has recognized in the course of its interrogatorie that the feeding of the war prisoners was entirely insufficient. The Tribunal will find on page 3 of the Document Book, which is before it, an extract from the interrogatory of Berger. The original is submitted under No.355.

"I visited -- second paragraph -- "a camp south of Berlin the name of which I forget. I shall perhaps later -- and at this minute I recognized that the food situation was very insufficient and there began a very violent, bitter discussion between Hitler and myself. Hitler was violently opposed to the continuation of distribution of packages of the Red Cross in the

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prisoner-of-war camps at the same rate as before. As for me, I thought that in this case there would be long and great troubles -- difficulties -- of health for the people involved, which would result.

We present Document 826-PS, under No.356. This document comes from the Fuehrer's general headquarters. Meeting of -- this is on page 7 of your Document Book. This is a report on the trip to Norway and Denmark. Paragraph 3.

"All the war prisoners received in Norway a quantity of food which enabled them just to live without working. However, the cutting down of work requires such an effect on the war prisoners. If the food remains the same it must be expected that there will be a very rapid diminution of productivity." This note applies to the situation of the 82,000 prisoners of war who are captive in Norway, 30,000 of whom were employed at very hard labor of construction, and this can be found in the first paragraph of the document. Just read, on page 7:

We present now to the Tribunal a document, No.820-PS, page 9 in the document book. It has to do with the establishment of prisoner-of-war camps in the regions exposed to aerial bombardment. It emanates from the general headquarters. It is dated 16.8.1943. It is addressed by the Commander-in-Chief of the air army to the Supreme Commander of the Wehrmacht. We submit it under No.358, and we shall read to the Tribunal paragraph 3:

"The Colonel, Air General Staff, proposes to set up prisoner camps in the residential quarters of the city, in order thus to obtain certain protection."

I skip a paragraph. This is two paragraphs.

"In view of the above, there is a question of setting up immediately such camps in towns where there are dangers of air attacks. The discussions with the City of Frankfurt have shown these towns will activate the construction of the camp by all means at their disposal."

The last paragraph:

"Now, there are in Germany about 8,000 war prisoners who are British and American aviators, without counting those hospitalized. In evacuating the camps actually in existence which might serve as lodging for those who have been made homeless, one would have war prisoners that are disposable for a

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sufficiently great number of camps."

The proposal indicated above was communicated first to the OKW chief of War Prisoners.

Page 10. The Tribunal will find a document emanating from the headquarters of the Fuehrer, dated 3 - 9 - 1943, still in connection with the establishment of these new prisoner-of-war camps for British and American aviators. We submit this document under No. 359.

"First, the Supreme Commander of the Luftwaffe projects the creation of other camps for imprisoned aviators, for the number of the latter is more than 1,000 per month, and if the pace actually provided is becoming insufficient the Supreme Commander of the Luftwaffe proposes the establishment of these camps within residential quarters of the cities, which will constitute at the same time a protection for the populations of the towns, and to transfer the camps actually existing -- including about 8,000 British and American aviators who are war prisoners into larger towns threatened by enemy aircraft.

"Second the Supreme Commander of the Wehrmacht, Chief of War Prisoners has approved in principle this project."

On page 12 of the Document Book which the Tribunal has before it, can be found a document F-551, which we shall submit under No. 360. This has to do with war prisoners, under Article 60 and following of the Geneva Convention, and the provision that the protecting power shall be advised of judicial prosecutions that are made against the war prisoners, giving the right to be represented at the trial." In spite of the --

THE PRESIDENT: Where are you? We are on page 12 but we have lost the place.

M. DUBOST: Page 12 of the Document Book, page 12 of the Document Book.

THE PRESIDENT: But whereabouts on 12?

M. DUBOST: In the middle of page 12. I am now commenting on this order. I have explained to the Tribunal that Article 60 and following of the Geneva Convention provide that the protecting power shall be advised of judicial prosecutions against war prisoners. The document which went

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under No. 360 shows that these provisions were violated. We read -- first line:

"The practical application of Article 60 and 66, particularly sub-paragraph 2 of Article 66 of the Convention of 1919, concerning the treatment of war prisoners encounters serious difficulties. For the application of a severe penal jurisdiction it is intolerable that precisely for the greatest offenses -- as for instance, the effective attack against the guard corps -- the death sentence cannot be executed except three months after its notification to the protecting power. The discipline of war prisoners necessarily suffers from this."

I pass over the rest of the paragraph. Page 13:

"The following arrangement is proposed: The French German will designate as --

THE INTERPRETER: I am sorry; I can't follow --

M. DUBOST: This is page 12, not page 13. "In the case of death sentence a proper lapse of time shall be given to this effect."

On top of page 13. "It is understood that Germany is to reserve to itself in this regard the right, even if this is not explicitly stipulated, to execute the sentence immediately in periods of crises." Third paragraph: "There is no question of authorizing France, which might perhaps refer to Article 62, paragraph 3 of the Geneva Convention, to send a representative to the chief sessions of the German Military Tribunals."

We possess an example of the violation of Article 60 and following of the Geneva Convention in the report of the Netherlands Government, which the Tribunal will find on page 14 of its Document Book.

THE PRESIDENT: I think we better break off now.

(Whereupon at 1250 hours the hearing of the Tribunal adjourned to reconvene at 1400 hours.)

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Official transcript of the International Military Tribunal, in the matter of: The United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics, against Hermann Wilhelm Goering, et al, Defendants, sitting at Nurnberg, Germany, on 30 January 1946, 1400-1700, Lord Justice Lawrence, presiding.

MARSHAL OF THE COURT: May it please the Court, I desire to announce that the Defendants Kaltenbrunner and Seyss-Inquart will beabsent from this afternoon's session due to illness.

THE PRESIDENT: I have an announcement to make.

When the attention of the Tribunal was called by the Defendant Hess to the absence of his counsel, the Tribunal directed that the presentation of the individual case against Hess be postponed, so that counsel could be present when it was presented. So far as the cross-examination of witnesses who testified to matters affecting the general case and not against Hess specifically is concerned, it is the view of the Tribunal that the cross-examination conducted by counsel representing the defendants equally interested with Hess in this feature of the case was sufficient to protect his interests, and the witnesses will therefore not be recalled.

The Tribunal has received a letter from the Defendant Hess dated the 30th of January, 1946, to the effect that he is dissatisfied with the services of counsel who has been appearing for him and does not wish to be represented by him further, but wishes to represent himself.

The Tribunal is of the opinion that having elected, in conformity with Article 16 of the Charter, to be represented by Counsel, the Defendant Hess ought not to be allowed at this stage of the trial to dispense with the services of counsel and defend himself. The matter is of importance to the Tribunal, as well as to the Defendant, and the Tribunal is of the opinion that it is not in the interests of the Defendant that he should be unrepresented by counsel.

The Tribunal has therefore appointed Dr. Stahmer to represent the Defendant Hess, in place of Dr. Rohrscheidt.

Yes, M. Dubost.

M. DUBOST: I beg the Tribunal to excuse me; I was completing the work which they had requested me to do in relation to concentration camps. I shall present to the Tribunal in a few moments, when I have completed the exposition

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of the question of war prisoners, the end of the French presentation relative to concentration camps, which consists of very few matters since we only have a few documents to cite, since, subject to proof which the defense may bring, the constant repetition of the same methods seems to me to be sufficiently established.

We were at the point of reading a document of the Dutch Government, which was already presented to the Tribunal under the number 324, and which establishes that a protest was formulated to the execution, or to the secret condemnation to death of three officers: Lieutenant Ten Bosch, Braat and Thibo.

I think that the document to which I alluded this morning, which is the official report of the French Government concerning prisoners, is now in the hands of the Tribunal. This document was submitted by M. Herzog under the number 46.

THE PRESIDENT: Presented by whom?

M. DUBOST: M. Herzog.

THE PRESIDENT: Oh yes.

M. DUBOST: I ask the Tribunal to excuse me, so that I do not have to again present this document.

It is evident that the Nazis had a systematic policy of intimidation. They strove to keep the greatest possible number of war prisoners in order to be able to eventually exercise efficacious measures over the countries from which these prisoners came. This policy was exercised by the legitimate capture of prisoners, and also by the refusal, which was systematically upheld, to repatriate the prisoners in the event that they were ill, a thing which would have been justifiable.

Concerning the illegitimate or abusive capture of war prisoners, we can cite the example of French prisoners.

The report of the Ministry of Prisoners and Deportees, to which we refer, indicates, on page 4, that in 1940 certain French military formations laid down their arms, at the time of the armistice, under the assurance which was given by the German Army that troops who had thus surrendered would not be put in captivity. These troops were, nevertheless, captured. The Alpine Army was about to be demobilized, and was west of the region of Vienna. They were made prisoners and were sent to Germany until the end of the month of July, 1940.

Moreover, formations of non-combatants, special civilians, were captured and imprisoned after Hitler's orders which said that all French were to be seized who were of an age to bear arms and should be imprisoned. In short, it is only because of the private initiative of the High Command that all Frenchmen were not transferred to Germany.

Because of the enormous number of prisoners, and these difficulties that the German Army had in taking all those men to Germany, the German Army decided, in 1940, to create what they called front Stalags. The promise was made to the de facto French Government, which was established after the armistice, that soldiers who were keptin those front Stalags would be kept in France. Now, the forces in these camps were begun to be sent to Germany beginning

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with the month of October 1940. In an additional report appended to the Document Book which you have, the Ministry of Prisoners and Deportees points out the irregular capture of the troops of the fortified sector of Haguenau -- Document 668-F, not numbered; it is an appendix to the Document Book. The fortified sector of Haguenau included, among others, the 22nd Regiment of Infantry of the forces; the 81st Battalion of Chasseur; the 51st and 58th Division of the North Africal Infantry. I cite again the document which I have just announced, 668-F.

In this fortified sector of Haguenau, the 22nd Regiment of Infantry -- these troops fought until the 25th of June, 1:30, and only stopped firing after an agreement between the Colonel in charge of the fortified sector of Haguenau and the German Generals, an agreement insuring to the troops war honors, and notably that they would not be made prisoners. The 51st and 58th Infantry Divisions, as well as the North African Division, withdrew towards Toul only after an agreement, signed on the 22nd of June, between the French General Dubuisson and the German General Andreas, at Theville and Groseilles, an agreement assuring military honor and assuring that troops would not be imprisoned.

If the Tribunal will permit me ------

THE PRESIDENT: What official document does this document come from?

M. DUBOST: From the Ministry of Prisoners and Deportees. It is an additional report which was made by this Ministry.

THE PRESIDENT: Have you got any number for that report?

M. DUBOST: The French number is 668-F. A copy of the document is included in the brief which is appended to the Document Book, which was submitted to the Tribunal this morning, concerning prisoners of war. We submitted it under the number 361.

THE PRESIDENT: Have you got the report on the captivity?

M. DUBOST: This report will be submitted to you, Mr. President?

THE PRESIDENT: It appears to be Additif No. 2 to the report on the captivity, for the attention of the French Delegation to the Court of Justice at Nurnberg.

M. DUBOST: That is correct, sir. The information which I have just read to the Tribunal are extracts from a note of Darlan to Ambassador

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Scapini on the 20th of April, 1941.

THE PRESIDENT: But M. Dubost, is there anything to show that it is an official document, such as this book /indicating/?

M. DUBOST: This document, Mr. President, has no relation to the book which you have.

THE PRESIDENT: No, I know it hasn't, but this is an official document produced by the Republic of France, is it not?

M. DUBOST: That is right, sir.

THE PRESIDENT: How do you show that this addition to the report on captivity is equally an official document with this one? That is what we want to know.

M. DUBOST: Mr. President, it is a report which was submitted in the name of the French Government by the delegation wh I represent.

THE PRESIDENT: Well, you see, this one here (indicating) is headed "Service of Information of War Crimes, Official French Edition". Now, that seems to us to be different from this mere typewritten copy, which has on it the "Appendix Number 2 to the Report on the Captivity." We do not know whose report on the captivity.

M. DUBOST: Mr. President, you have before your eyes the official note of transmission from our government.

THE PRESIDENT: In this document? (indicating)

M. DUBOST: From this distance I think that is it.

THE PRESIDENT: We have this document, which appears to be an official document but this addition has no such seal upon it as this has.

M. DUBOST: There is a mention of an appendix in this document. The document speaks of an appendix.

THE PRESIDENT: Is there mentioned in this document anything as to an appendix? The other document calls it an "Appendix" but it ought to be formally identified by a seal.

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M. DUBOST: The letter of transmittal has a seal and the fact that the letter by which it was transmitted had a seal shows that this document is authentic. The letter through which this document was transmitted, that letter had a seal upon it.

THE PRESIDENT: Is the explanation that you have torn off the Appendix from this document and have put in the Appendix separately?

M. DUBOST: I did not tear any document, Mr. President. I received an official document, whose authentic character is attested by the letter of conveyance or transmittal. The letter accompanying this document had an official seal.

THE PRESIDENT: Where is this letter?

M. DUBOST: The letter is at the top of the paper, at the right.

THE PRESIDENT: I see the letter now, yes.

M. DUBOST: May I continue now, Mr. President?

THE PRESIDENT: No.

This document here (indicating) has a letter attached to it. This document here (indicating) is not referred to in that letter specifically, it is not referred to particularly in the letter. Therefore, there is nothing to connect the two documents together.

M. DUBOST: There is, it seems, a manuscript note on the margin. I have not the document before me here but I think there is a namuscript note in the margin and, Mr. President, you can see it.

THE PRESIDENT: The Tribunal wishes you to put this in as one document.

I see there is a manuscript note here at the side, in writing, which refers to the Appendix. If you will put the whole thing in together --

M. DUBOST: It is all submitted as one document; all these papers are submitted as one document.

I wish to read now, to the Tribunal, extracts from two letters addressed to the German Armistice Commission at Wiesbaden by the ex-ambassador Scapini, both dated the 4th of April, 1941. The Tribunal will find them reproduced in the document book before them, pages 16, 17, 18, 19, 20, 21 and 22. It is dated the 4th of April, 1941, at the top of the page to the right, page 16.

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"Mr. Scapini, Ambassador of France to his Excellency Mounsieur Abetz, German Ambassador at Paris.

"Purpose: Men captured after the Armistice Commission came into being and treated as war prisoners."

At the bottom of the page where it deals with the Geneva Convention:--

"The Geneva Convention applies only to a state of war concerning captures. Now, armistice suspends war operations. Hence, any man captured after the Armistice Commission was created and treated as a war prisoner is wrongfully retained in captivity."

On pages 17, third paragraph -- Article 4 concerns the Armistice Convention. It states only that the French Armed Forces stationed in regions occupied by Germany should rapidly be brought back to the non-occupied territory and be demobilized but the Article does not say a thing which would be contrary to the Geneva Convention, that is, that they be taken into captivity.

Fifth paragraph of the same page -- "First Civilians. If it is admitted that civilians can not be treated as war prisoners by their capture before the Armistice, it is all the more a strong reason not to consider them as captured after the Armistice. I notice in relation to the subject, amongst those captured, they were carried out several months after the end of hostilities."

Then on page 18, the top of the page, concerning categories of civilians: "With reference to what you will find in my first letter, I wish to add that civilians demobilized who were going back to their homes in the occupied zone after the Armistice and were quite frequently captured on their way home and sent into captivity as a result of the initiative of local or military authorities.

"Secondly, as to soldiers, I call attention to the Convention that men who were freed after the Armistice and could not be provided, for one reason or another because of the difficult circumstances of the period, which the regular document of demobilization -- a number of them were captured and taken into captivity under the same conditions as the preceding period."

I think the Tribunal will not require the reading of that example, but if the President wishes it I shall read it.

Let us go to page 19, the second half of the page, the last paragraph.

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"Civilians not subject to military requirements: It is obvious that these men could not be considered soldiers according to French law. They can be classified, according to age, into three groups.

"(a) Men under twenty-one not yet mobilized. Example: Flanquart Alexandre, eighteen years old, captured at Courrieres by the German troops, in the Department Pas-de-Calous, at the time of the arrival of these troops in that region. His address in captivity is No. 65-381, Stalag II-B.

"(b) Men between twenty-one and forty-eight who were not mobilized, who were demobilized or who were considered unfit for service."

The Tribunal will may observe the examples without my reading them.

"There were men especially assigned to the Army; there were two kinds. I will classify them into two groups: first men especially assigned to military formations, established according to the mobilization in different ministerial departments, according to the following chart (on page 21 at the top of the page). Those assigned especially, who were kept mobilized in the positions which they held at the time of the peace in military services or establishments.

"Example: Men in artillery storage boxes, civilians

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especially assigned. Contrary to the preceding, the civilians who were assigned did not truly belong to military formations and did not depend on military authority. They were arrested too.

"Example: (I skip here several lines) Mouisset, Henri, especially assigned to the factory Marret-Bonnin."

I skip several lines -- "Address in captivity: No. 102 Stalag II-A."

Those people were not all freed, for from it. Some remained prisoners until the end of the war.

Arrest of Dutch Officers. We shall cite now document submitted under Number 304 RS, in your document book, shown on page 15 BIS. The text may be summarized in a few words.

It is the story of Dutch officers who had been freed after the capitulation of the Dutch Army and receptured shortly afterwards to be sent, in captivity, to Germany.

Paragraph 3 of this document states on the 9th of May, 1942, there was published in the Dutch newspapers a summons addressed to all career officers of the former Dutch Army who were on active service May 10, 1940, according to which they were to be present on the 15 of May, Friday, 1942, at the Barracks Chasse at Breda.

Paragraph 5 states that more than one thousand career officers came forward to this barracks and the doors were closed after them.

Paragraph 7 -- A German officer of high rank in the OKW declared that the officers had not kept their word to undertake no actions against the Fuehrer and as aresult of this they were to be kept in captivity.

The following paragraph states that they were taken from the station at Breda to Nurnberg, in Germany.

Numerous obstacles were placed in the way. Six French officers who for reason of health, should have been sent back to their families. We shall cite a document already submitted under Number 297, page 23 of your document book and I read the first paragraph:

"The question of freeing French generals, war prisoners of the Germans for reasons of health or age was taken up on several occasions by French authorities."

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This reproduction is not quite clear.

I continue with paragraph 2.

"The Fuehrer, always, insofar as this question is concerned, maintained an attitude of refusal as far as thei being freed was concerned as well as their hospitalization in foreign countries or neutral countries.

"Paragraph 3. A freeing or hospitalization today is even less considered

In the manuscript there is no reply given to the French note. This note, in fact, was addressed by the Supreme Commander of the German Army to the German Armistice Commission, who consulted with General Staff on the point as to whether or not to reply to the request concerning the freeing of French generals who were ill, from the de facto government of France at that time.

Much more serious measures were undertaken against our war prisoners by the German authorities, when for reasons of a patriotic nature, some of our compatriots who were imprisoned caused the Germans to feel or become sensitive to the fact that they were not willing to collaborate with Germany. The German authorities considered those of our compatriots who thus acted as not being assimilated and they were dangerous because of their courage and their determination. And the measures formulated concerning them were truly murderous.

We know of numerous examples of murders perpetrated upon the persons of war prisoners, either because they took part in commando work or because they were anti-Hitler, or they were reproached because they tried to escape or even simply because they accused them of inactive resistance acts or simply because of ethical resistance against the Nazi regime. These murders were carried out by means of deportation and the internment of these prisomers in concentration camps. While interned in these camps they forced them to live under a regime about which you know and which naturally led them to death or they killed them quite simply with a bullet in the back of the neck, which was the method which has been described by our American colleagues and which I will not need to present or go over.

In other cases they were lynched on the spot in conformity to orders given or because of the tolerant attitude of the German Government towards

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the population as to these acts or in other cases, they were handed over to the Gestapo. I will sho you at the end of my statement that in the last years of the occupation they had the right to carry out executions.

With the authorization of the Tribunal, we shall study two cases of extermination of combatants, captured after military action or operations; that of the commandos and that of aviators.

As the Tribunal knows men who were commandos were most always volunteers. In any event, they were selected from amongst the most courageous combatants and they were the ones who showed the greatest physical aptitude for combat. We can consider them, therefore, as the elite and the order for their extermination tended to annhilate the elite and terror to reign in the ranks of the Allied Armies.

From a political point of view the execution of the commandos cannot be justified. The Germans themselves, moreover, used in a large measure, the commando operations. As far as their own men were concerned, when they became prisoners they always required that they be recognized as belligerants. However, they failed to give that quality to our men or those of the Allied Armies. Insofar as that is concerned, the major order concerning this was signed

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by Hitler and is dated the 18th of October, 1942, and it received most widespread carrying out. This order precedod other orders of the OKW, which show that the question had been carefully studied before becoming a final order of the Chief of the German Government.

Under Number 553-PS, the Tribunal will find on page 24 of the document book, an order signed by Keitel which we submit under Number 326. This order formulates the policy that all parachutists who are in small groups or alone - it is dated the 4th of August, 1942, page 25 and the Tribunal will see it is signed by Keitel, paragraph 3 - but it has already been read and the Tribunal will excuse me from reading it.

On the 7th of October, 1942, a communique of the OKW, disseminated by the press and radio, announced the decision taken by the High Command to execute all who engaged in sabotage activity.

On page 6, the Tribunal will find in the document book, extracts from the "Volkische Beobachter", 8 October 1942, it states:

"In the future all troops concerned with terrorism or sabotage among the British soldiers and their allies, will not be considered as soldiers but as bandits; will be treated as such by the German troops and shot on the field of battle without any concern whatsoever, no matter where they entered in action."

Under the number 363 we submit notes of a meeting of the General Staff of the Wehrmacht, which is dated the 14th of October 1942, paragraph three, page twenty-seven.

"In the period of total war, sabotage becomes an essential requirement of operation. It is our purpose to point out our own attitude. The enemy can prove some of our own propaganda copies."

Page twenty-nine, paragraph three, the end of the paragraph, still from the notes of this meeting, dated the 14th of October 1942, the General Staff of the Army.

"Sabotage is an essential element, and we have developed it ourselves as a means of combat."

THE PRESIDENT: What paragraph?

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M. DUBOST: The third paragraph. Then the sixth paragraph.

"The intention to liquidate in the future all groups of terrorists and saboteurs who conduct themselves or act as bandits has already been received by radio. Consequently you must consider that the task of the General Staff ot the Army is only to give directives for practical execution in order that troops may know what they should do so far as these groups are concerned."

Page thirty. The Tribunal will see what were the orders which were given as far as treatment and what the German General Staff called "Groups of terrorists and Brittanic saboteurs." So far as other saboteurs are concerned, the commandos of the adversary were assured that the German General Staff never considered their own groups of commandos, terrorists, and saboteurs.

Paragraph one, fourth line:

"This order is to be applied to any group of the British Army in British uniform or not in British uniform." I cite: "We must exterminate them without any consideration or comment."

Paragraph (b). "Members of terrorist groups and sabotage groups of the British army who in uniform have conducted themselves before our troops in dishonorable fashion contrary to the law of nations must be kept in separate custody."

I skip two lines and I read: "The instructions on the treatment to be inflicted upon them will be given by the General Staff of the Army; in effect, the juridical service and the department for foreign countries."

Finally, page thirty-one, paragraph two: "A group of terrorists and saboteurs will always henceforth be considered as acting contrary to the laws of war. For example, aggressors, saboteurs, agents, soldiers in uniform or not in uniform carrying out aggressions or aggressive acts, acts of barbarism, according to the opinion of our troops."

Paragraph three. "In that event the groups will be annihilated to the last man during combat or when they try to escape."

Fourth paragraph. "It is forbidden to intern them in war prison camps."

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Thus in carrying out these orders, if the British soldiers, even in uniform, were captured during these commando operations, the German troops were to be their judges and to judge whether they had acted according to the laws of war or not; and without any appeal subordinates could annihilate them to the last man even when they are not engaged in active fighting. These orders were applied to British commandos.

We shall cite now Document 498-PS, submitted by our American colleagues under the number 364, and which confirms the information which we have just brought to the Tribunal by the reading of the preceding document. It seems useless to read this document.

THE PRESIDENT: Mr. Dubost, had the document on page thirty-one been received before? - the one you just read?

M. DUBOST: Document thirty-one, which I have just read, was not read.

THE PRESIDENT: The next one hasbeen read, has it not, 498?

M. DUBOST: Document 498, which I said to the Tribunal that I was not going to read from, was read by our American colleagues. The Tribunal will find it nevertheless in this document book on pages thirty-two and thirty-three.

THE PRESIDENT: There are two points to which I wish to draw your attention. In the first place, it is said that

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you are not offering these documents in evidence, you are simply reading them, and they must be offered in evidence so that the document itself may be put in evidence. You haven't offered in evidence any of these documents; you have just been reading from them or have given them numbers.

M. DUBOST: Mr. President, they were all filed, all of them were filed except two which were already filed by our colleagues, and all were filed with a number which can be given to you immediately. I shall ask the French secretary to give you the number of filing.

THE PRESIDENT: They have all been put in evidence already?

M. DUBOST: Excuse me, Mr. President, some were filed, and I gave them a French number under which they were filed.

THE PRESIDENT: You are saying, "have been put in evidence by some other member of the prosecution;" is that right?

M. DUBOST: That is correct, Mr. President. When I cite I even give the number by which they were filed by the American Prosecution.

THE PRESIDENT: That was filed by the American Prosecution, was it not: 498, on page 32?

M. DUBOST: 498 was filed under the number USA-501. I said that to you, sir.

THE PRESIDENT: I am speaking of 498, page 32.

M. DUBOST: 498 is the American number 501. The number 498-PS, which is in your document book on page 32, was filed by my American colleagues under the number 501.

THE PRESIDENT: Very well.

M. DUBOST: I don't want to read it. I just want to comment on it very briefly.

THE PRESIDENT: Very well. With reference to the document which preceded it on page 28, 29, 30 and 31--

M. DUBOST: I will ask the French secretary to give them to you with the number under which they were filed.

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THE PRESIDENT: Have they been filed by the American Prosecutor too?

M. DUBOST: Not all. Some were filed by the American Prosecution and others were filed by me.

THE PRESIDENT: All I am pointing out-- I think, M. Dubost, that what the Tribunal wants you to do is when you put in a document--

M. DUBOST: Will you excuse me, Mr. President. I don't understand.

THE PRESIDENT: I haven't finished the sentence. What I was saying was, what the Tribunal wants you to do is, when you put in a document, if it hasn't already been put in, give it a number and announce the exhibit number so that the record may be complete. Is that clear?

M. DUBOST: It is clear, Mr. President, but I believe that I have done it from the beginning, since the French secretary gave you the figures.

THE PRESIDENT: You may have put numbers on the documents, but you haven't announced them in some cases.

There is another matter which I wish to state and it is this. When I spoke before, what I asked you to do was to confine yourself to any new points, and you are now giving us evidence about commandos and about British commandos, all of which has been thoroughly gone into in previous stages of the trial, and that appears to us to be unnecessary.

M. DUBOST: If the Tribunal will pardon me, one of these documents from which I have read was submitted before. I just reached the document which had been cited before, and I ask the Tribunal to permit me from making a commentary on it, since the document is already known by the Tribunal.

THE PRESIDENT: Well, we have had a good deal of evidence already about the treatment of commandos and sabotage groups, evidence, if I remember right, which attempted to draw some distinction between

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troops which were dropped from the air, for instance, close up to the battle zone, and troops that were dropped at a distance behind the battle zone. You had quite a lot of evidence upon that subject. If there is anything which is of special interest to the case of France we should be most willing to hear it, but we don't desire to hear cumulative evidence upon subjects which we have already had.

M. DUBOST: I didn't think that I had brought cumulative proof to the Tribunal in reading a document which had not previously been cited from, but since that is so I will not read from them further.

It must be emphasized, however, in our eyes the responsibility of Keitel, who curiously co-operated in the orders which were given for the execution of these orders which were carried out. Document 510-PS, page 48, has not been read. We submit it under the number 367, and we ask the Tribunal to consider it as officially filed; a document relative to the orders which were given concerning the debarkment or invasion of British attachments at Matmos and Piskopi. The memorandum from the General Staff to the commander of the different units, No. 532-PS, which is the appendix to this document. We submit this document under the number 367, and we ask the Tribunal to receive it as officially submitted.

Now we reach the execution of Allied aviators who were captured. From the presentation which was made considering this question, the Tribunal has learned that a certain number of aerial operations were considered as criminal acts by the German Government, who indirectly facilitated the extermination or killing of these aviators by the population. I don't have to go into this memorandum again. This is document 263, which has already been cited as USA 334.

Within the framework or scope of these instructions orders were given by the letter of 4 June 1944 to the Ministry

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of Justice, in order that they might prescribe any prosecution against German civilians who might have murdered Allied aviators. This is the purpose of Document 565-PS, which you will find in the appendix to the document book.

"Ministry of Justice of the Reich." This document will become number 370, and I submit it as an official French document.

"The Ministry of Justice of the Reich. 4 June 1944. To the Ministry of Justice of the Reich. Doctor Thierack:

"Concerning the justice of the people against Anglo-American citizens: the chief of the Party Chancery informs me by secret memorandum and asks me to make it known to you also. I put myself to do it in this letter in asking you to examine by what measures you wish to inform the tribunals and the public prosecutors."

The 6th of June, at two important meetings concluded notably with Kaltenbrunner, Ribbentrop, Goering (all three defendants), Himmler, Brauchitsch, and at which officers from the Luftwaffe were present, they decided to definitely fix the list of aerial operations which would be considered acts of terrorism. The original transcript established by Warlimont and bearing commentaries of Jodl and of Keitel is Document 735-PS, which I submit under number 371-RS.

It was decided during this conference -- page sixty eight in the document book -- that lynching was the best punishment to stop certain types of aerial operations directed against the civilian population. Kaltenbrunner promised, so far as the active collaboration of the SD was concerned -- page sixty eight at the end of the first paragraph. This document, so far as I know, was never read.

DOCTOR EXNER (Counsel for defendant Jodl): I am protesting against Document 532-PS dated 24.6.44. That is a sketch of a decree which was presented to Jodl, but which was not granted by him, and therefore is not to be considered.

And at this instance I would also like to call the attention of the Court to the fact that we defense attorneys did not receive a document book the same as the one presented to the Tribunal, and it is therefore very hard for us to follow the speech of the prosecution.

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Every morning we receive quite a bulk of documents which partially refer to future and past proceedings. But a document book in chronological order I have not received in weeks. Furthermore, it would be desirable for us to receive the documents the day before. In that case, when testimony is presented, we could be of assistance.

THE PRESIDENT: Dr. Exner, are you saying that you have not received the document book, or that you have not received the dossier? Are you saying that you have not received the document book or this thing which is the dossier of the speech?

DR. EXNER: I did not receive the document book. I would like to add something further. Some of the documents which were just presented were quoted without signatures, without date, and it is questionable whether these so-called documents are to be considered as documents.

THE PRESIDENT: Well, I imagine that you have just heard -- I have told M. Dubost that he must announce the exhibit number which the French Prosecutor is giving to any document which he puts in evidence. As I understand it, he has been putting numbers upon the documents, but in certain cases, he has not announced the number in open court. The document, as you have seen, has been presented, and, as I understand, it has a number upon it, but he has not in every case announced the number, and the Tribunal has told M. Dubost that it wishes and it orders that every document put in by the French Prosecutor should have an exhibit number announced in Court. That meets the one point that you raised.

As to your not having the document book, that is, of course, a breach of the order which the Tribunal has made that a certain number of copies of the documents should be deposited in the defendants' Information Center, or otherwise furnished to defendants' Counsel.

As to Document 532-PS --

(Off the record discussion by the Court)

THE PRESIDENT: Dr. Exner, is there anything further you wish to say upon these points, because we are just about to have a recess for a few moments. We would like to have what you have to say before we have the recess.

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DR. EXNER: I have nothing further to add to that, your Honor, but if I may be permitted to make a further remark, we were advised that it was the wish of your Honor, the President, that we should hear every day what is to be the content of the proceeding the following day, which would, of course, aid our preparations no end, and this omission did not happen just once. I myself have never heard the day before what was to be considered the following day.

THE PRESIDENT: Thank you. M. Dubost, the Tribunal would like to hear what you have to say upon the points raised by Dr. Exner: first of all, upon the Document 532-PS; secondly, why he did not receive a document book; and lastly, why he has not received any program as to what is to be gone into on the following day.

M. DUBOST: As to the question of program, as Dr. Exner pointed out, the Prosecution may have been supposed to present this program, but no one has ever done it -- neither the French Prosecution nor its predecessors. Perhaps it has sinned, since this request was made, but I don't remember. We will request them to do that.

As far as the document book was concerned, perhaps this book was not handed to the Defense in the form in which the Tribunal received it. However, I am certain that yesterday I sent to the Defense Quarters the text in German and several texts in French of all the documents which I was to submit today. I can't absolutely assure the Tribunal that they were placed in the order in which you have them, but I am sure that they had all the documents.

THE PRESIDENT: As to Document 532?

M. DUBOST: This document, 532, was not read in the hearing. I could not hide that there was a manuscript note in the margin, but I didn't read this document.

THE PRESIDENT: Is it a document that had been put in before?

M. DUBOST: I don't believe so, Mr. President. In my dossier there are a certain number of documents which I have not read, since the Tribunal ordered me to condense and shorten my exposition, and Document 532 is one of those, but I didn't read it.

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THE PRESIDENT: I know you didn't read it, but did you purport to put it in evidence?

M. DUBOST: I didn't read it, Mr. President.

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THE PRESIDENT: I know you didn't read it, but did you put it in evidence? Did you give it a number?

M. DUBOST: It is part of this series of documents which I did not read since I wish to summarize and shorten my presentation.

THE PRESIDENT: Well, M. Dubost, I have said that I knew that you did not read it, and I have asked you -- I think twice -- whether you purported to put it in evidence. Did you give it a number?

M. DUBOST: Yes, that is correct, 368, yes.

THE PRESIDENT: The document, according to Dr. Exner, is a draft of a decree which was presented to Jodl but wasn't granted by him. Those were his words, as they came through on the translation, and, therefore, he submits that it is not to be considered, and there is nothing to show that the document was ever anything more than a draft.

If so, isn't it clear that it ought not to be received in evidence?

M. DUBOST: This is a question which the Tribunal will decide after having heard the explanation of Dr. Exner. This document didn't seem to me of major importance in my presentation, since I didn't read from it. At any rate, I could not hide from the Tribunal that there was a manuscript note on the margin, and it is certain that this manuscript note is an element to be taken into consideration, and which the Tribunal will consider whether the document should be received or not be received, after having heard the explanations of the Defense.

(Whereupon the Tribunal recessed from 1540 hours to 1605 hours.)

DR. NELTE: Dr. Nelte, defense counsel for Keitel.

Mr. President, I had occasion during the intermission to talk to my client, Keitel. The French Prosecutor had before this intermission referred to a document and had read from a note from Admiral Darlan, addressed to the French Ambassador Scapini. This had been introduced in evidence.

The French Prosecutor seeks, as I take it from his words, to prove by this document that the German generals agreement concerning the French troops had not been kept. In consideration of the seriousness of this, I would be obliged to the French prosecution if they would declare with respect to this document, first, whether these recriminations of the French

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Government had been brought to the attention of the German Government.

THE PRESIDENT: Document 668, is it?

DR. NELTE: 668, yes.

THE PRESIDENT: Are you referring to Document S-668?

DR. NELTE: Yes, additional number No. 2.

THE PRESIDENT: It would be more convenient if you could refer to the document by the usual document number. The document I have is Document S-668, at the top of the document.

DR. NELTE: On my document it has been inserted in pencil.

THE PRESIDENT: Is it dated the 4th of April, 1941?

DR. NELTE: It has no date.

THE PRESIDENT: Will you hand it up?

(The paper was handed to the President.)

Yes, I follow now. What do you say about it?

DR. NELTE: The French Prosecutor had concluded from this document that what was contained in this document was also proved. I would like to point out that it is an excerpt from a note of Admiral Darlan, addressed to the French Ambassador Scapini. In other words, this document does not show whether Ambassador Scapini had taken the necessary steps with the German Government or, furthermore, what the German Government had answered to this note. For this reason I would like to ask the French Prosecutor to declare whether he can find in his document that these very serious recriminations have been brought to the attention of the German Government, and secondly, what the German Government answered. Since that document is in possession of the Allies, it is not possible to ask Keitel to produce it.

(M. Dubost stepped before the microphone.)

THE PRESIDENT: Perhaps the most convenient course would be, if you wish to say anything about the objection which Doctor Nelte has just made, for you to say it now. As I understand it, that objection is that this document, 668, is a note by Admiral Darlan complaining that certain French troops were surrendered on the terms that they were not to be made prisoners of war, but were afterwards sent to Germany as prisoners of war. What Doctor Nelte asks is, was that matter taken up with the German Government, and if so, what

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answer did the German Government give? That seems to the Tribunal to be a reasonable request for Doctor Nelte to make.

M. DUBOST: A reply has been given, Mr. President, through the reading of the appendix of Ambassador Scapini's statement addressed to Ambassador Abet;

THE PRESIDENT: My attention is drawn to the fact that the two documents to which you refer are dated the 4th of April. The document to which Doctor Nelte refers is a subsequent document, namely, one dated the 22nd of April. Therefore it does not appear from documents which were anterior to the document of 22nd April as to what happened afterward.

(There was no reply.)

THE PRESIDENT: Did that not come through to you?

M. DUBOST: Mr. President, I am not aware of this. These documents were given to me by the official French service. They are from regular parliamentary archives and were put together by the French official service.

THE PRESIDENT: Perhaps it should be investigated and found out whether the matter was taken up with the German Government and what answer the German Government gave. Not at the moment but in the course of time.

M. DUBOST: I shall have to apply to the French Government in order to discover whether in our archives there is any trace of any communications in the sense indicated, that is, by the French Government to the German Government.

THE PRESIDENT: In the event of your not being able to get any satisfactory explanation, the Tribunal will take notice of Doctor Nelte's objection, or criticism, rather, of the document.

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It is pointed out to me the fact that the two earlier documents to which you are referring are documents addressed by the Ambassador of France to M. Abetz, the Ambassador of Germany, and it may be, therefore, that they are similar correspondence in reference to Document No. 668 here in the same file, which is the file that the French Government presumably has accomplished, or might have accomplished.

M. DUBOST: It is possible that is the hypothesis, and I naturally think that that was possible.

THE PRESIDENT: Therefore, you can not express yourself for the moment as to the other matter which is raised by Dr. Exner; then the Tribunal stress itself that Document 532-PS should be stricken out of the record insofar as it is in the record. For the present if the United States and the French prosecutors wish to say that the document will again probably be put in evidence at a future date, they may apply to do so. Then assume that the defendant's counsel, Dr. Exner, for instance, wishes to make any use of the document, of course, he is at liberty to do so.

In reference to the other matters which Dr. Exner raised, it is the wish of the Tribunal to assist defendants' counsel any way possible in their work, and that they are, therefore, most anxious that the rules which they have laid down as to documents should be strictly complied with, and they think that copies of the original documents certainly should contain anything the original documents do contain.

This particular Document No. 532-PS, as a copy, I think I am right in saying does not contain the marginal note in the script which the original contains. At any rate it is important that copies should contain everything which is in the originals.

Then there is another matter to which I wish to refer. I have already said that it is very important that documents, when they are put in evidence, should not only be numbered as exhibits, but that the exhibit number should be stated at the time, and also even more important, or as important, that the certificate certifying where the document comes from should also be produced for the Tribunal. Every document put in by the United States bears upon it a certificate stating where it had been found, or what was its origin, and it is

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important that that practice should be adopted in every case.

The only other thing I want to say is that it would be very convenient, both to defendants' counsel and to the Tribunal too, that they should be informed at least the night before of the program which counsel proposes to adopt for the following day. It is true, as was said, that perhaps that has not been absolutely regularly carried out by the prosecutor on all occasions, but it has been done on quite a number of occasions within my recollection, and it is at any rate the most important practice which the Tribunal desires should be carried out, and they would be glad to know above all what you, Mr. Dubost, propose to address yourself to tomorrow, and the Tribunal would be very grateful to know how long the French prosecutors anticipate their case will take. They would like before you finish, or at the conclusion of your address this afternoon, to indicate to the Tribunal, and to the defendants' counsel, what the program for tomorrow is to be.

SIR DAVID MAXWELL-FYFE: If your Honor please, if I could say one word in regard to the position of that document, because I had an opportunity during recess to consult my friend Mr. Dodd, and also my friend M. Dubost; it is that all PS documents, every one of a series of captured documents, their origin and the steps taken subsequent to the article, were verified on 22 November by Major Coogan, and were put in by my friend Colonel Storey.

Yes, it is the submission of the prosecution, one which, of course, it is delighted to elaborate any time convenient to the Tribunal, that all such documents being captured and verified in that way are admissible. I stress the word admissible, but the weight which the Tribunal will attach to any respective document is, or course, a matter at which the Tribunal would arrive from the contents of the document and the circumstances under which it came into being. That, I say, is the only reason I ventured to intervene at the moment because there might be some confusion between the general verification of the document as a captured document, which is done by Major Coogan as his service, and the individual certificate of translation, that is, of the correctness of the translation of the different documents, which appear at the end of each individual American document. The fact is that my friend, Mr. Dodd, and I were very anxious that it should be before the Tribunal, and we should be

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only too delighted to give to the Tribunal any further information which it desires.

THE PRESIDENT: Does what Major Coogan did apply to all the other series of documents put in?

SIR DAVID MAXWELL-FYFE: It applies to PS and later to the letters RC and EC.

THE PRESIDENT: What about the L?

SIR DAVID MAXWELL-FYFE: What about L? I think it is L.

THE PRESIDENT: EC applies to that also?

SIR DAVID MAXWELL-FYFE: RC and EC.

THE PRESIDENT: Does the certificate then cover this particular sheet of paper which is marked 5-C-2-PS, and has it no other identifying mark?

SIR DAVID MAXWELL-FYFE: Yes. The affidavit proves that that was a document captured from that series. I have not troubled the Tribunal with reading it, because on the whole we submit that it is now admissible as just an admission; of course, the matter of weight may vary.

THE PRESIDENT: Yes.

SIR DAVID MAXWELL-FYFE: I don't want the Tribunal to be under a misapprehension that every document was certified individually, but what is certified is a non-captured document. If a document comes from any of the sources in Article 21, then some one with authority from this Government certifies it as coming from one of these sources and that we do individually. But concerning captured documents, we don't make any individual certification; we depend on Major Coogan's affidavit.

THE PRESIDENT: Yes, but just a moment. Sir David, it is perhaps right to say in reference to this particular document, 532-PS, or the portion of it which has been produced, first of all, that the copy which was put before us didn't contain the marginal note, and that it is, therefore, wrong. We are in agreement with your submission that it has been certified, as you say, by Major Coogan's affidavit, which is admissible; but, of course, that has nothing to do with its weight. That is the point upon which Dr. Exner was addressing us.

SIR DAVID MAXWELL-FYFE: So I appreciate it, Your Honor.

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THE PRESIDENT: If a document be complied with, without a question it is admissible; but any document, of which we can take judicial notice, which has not been read in court by government or other prosecutors is not in evidence now because it has not been read by Mr. Dubost.

SIR DAVID MAXWELL-FYFE: Your Honor, with that, of course, I don't desire anything further, That is the ruling of the Tribunal. The only part that I did want to stress was that the PS as such is being verified and, of course, subject to reading it in court it could be put in.

THE PRESIDENT: Thank you. We quite understand that.

I ought to say on behalf of the Tribunal that we owe an apology to the French prosecutor and his staff because it's just been pointed out to me that this marginal note got here upon the translation and, therefore, M. Dubost, I tender to you my apology.

M. DUBOST: Mr. President, the Tribunal will certainly remember that this morning document 1553-PS was set aside, which includes in it bills of gas destined for Oranienburg and Auschwitz. I believe that, after the explanation given by Sir David, this document 1553-PS may now be admitted by the Tribunal inasmuch as its verification has been established.

THE PRESIDENT: Was it read, M. Dubost?

M. DUBOST: Yes, Mr. President. I was in the process of reading it this morning at number 27 in the second book of documents, but the Tribunal set it aside because the Tribunal demanded that I furnish an affidavit. The intervention of Sir David is in a sense such an affidavit, and I beg the Tribunal go forgive me in formulating this request of you, but may I ask you to accept the document which was refused this morning?

THE PRESIDENT: M. Dubost, it was a question of gas, wasn't it?

M. DUBOST: That's right.

THE PRESIDENT: There was one bill of lading and then there were a number of other bills of lading which were referred to.

M. DUBOST: And the whole constituted document 1553-PS. This document is included in the series covered by the affidavit, of which Sir David has spoken to you.

THE PRESIDENT: M. Dubost, if you attach importance to it, would it not be possible for you to give us the figures from these other bills of lading? I mean the amount of the gas.

M. DUBOST: Quite willingly, Mr. President.

THE PRESIDENT: Just in order that it may be upon the shorthand notes.

M. DUBOST:

14 February 1944	Gross weight:	882 kilos
	Net weight:	557 kilos
16 February 1944	Gross weight:	832 kilos
	Net weight:	555 kilos

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The first is addressed to Auschwitz and the second to Oranienburg.

13 March 1944 Gross weight: 896 kilos

Net weight: 590 kilos to Auschwitz

13 March 1944 -- addressed to Oranienburg

Gross weight: 887 kilos

Net weight: 598 kilos

30 April 1944 -- to Auschwitz concentration camp

Gross weight: 632 kilos

Net weight: 555 kilos

30 April 1944 -- Auschwitz

Gross weight: 832 kilos

Net weight: 555 kilos

30 April 1944 -- Oranienburg

Gross weight: 832 kilos

Net weight: 555 kilos

18 May 1944 -- Oranienburg

Gross weight: 832 kilos

Net weight: 555 kilos

31 May 1944 -- Auschwitz

Gross weight: 832 kilos

Net weight: 555 kilos

This appears to me to be all in document 1553-PS, and there is added thereto the statement by Echner and also the statement by the chief of the American service who collected these documents.

With the permission of the Tribunal, I shall proceed with the presentation of the crimes for which we reproached the defendants on the allied prisoners of war who were interned in Germany. Document 735-PS, page 68 of the document book, which we have placed before you some time ago under No. 371-RS, relates important meetings which brought together Kaltenbrunner, Ribbentrop and Goering, in the course of which were decided the dealing with air operations which constituted terroristic acts. It was decided in these meetings that lynching would be the best punishment in regard to all actions directed against civilian populations as to which the German Government attached a terroristic character. On page 68 it involves the proposals of Ribbentrop. We read in one of the three copies of the notes

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of the meetings that were held that day, in the first paragraph, 11th line: "Contrary to the proposals of the Minister of Foreign Affairs, who wanted to consider it as such, all terroristic attacks against the civilian population and consequently air attacks against cities were placed in this catagory. The proposals made by Ribbentrop were therefore in excess of what was accepted at the time of this meeting. The three lines which follow deserve the attention

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of the Tribunal. Lynch law would be the means of settlement. There was, on the other hand, no question of having a judgment rendered by a tribunal or the turning over of the people to the police. In paragraph B, bottom of the page:

"One had to distinguish from the enemy airmen who were suspected of terroristic acts, and we should prepare for their admission in the airmen's camp at Oberursel, and if there are any suspicions, they should be turned over for special treatment by the SD."

The Tribunal will certainly remember the descriptions which were given of this "special treatment" by the American prosecution. What is involved is purely and simply the extermination of allied airmen who had fallen in the hands of the German Army.

On page 69 the Tribunal may read, under No. 3, the enumeration of the acts which are to be considered as terroristic acts and as justifying lybching procedures.

"(A) Attacks were weapons against the civilian population as well as against isolated individuals or against gathering of civilians.

"(B) Shots against German aviators, jumping in a parachute from their aircraft when brought down.

"(C) Attacks were weapons against passenger trains, public transport; attacks were weapons against hospitals or hospital trains that are visibly equipped were a red cross."

Three lines below:

"If such acts should be established in the course of interrogations, the prisoners will have to be turned over to the SD."

This document comes from the Fuehrer's headquarters. It was brought there on the 16th of June 1944, and it bears the number of the assistant chief of staff of the Wehrmacht.

THE PRESIDENT: I think that has all been read, M. Dubost. I think that document was all read before.

M. DUBOST: Mr. President, I had been told that it had not been read.

THE TRIBUNAL: I haven't verified it.

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M. DUBOST: We place before the Tribunal Document 629-PS, under No. 372. This document concerns the preceding one that comes from the Fuehrer's Headquarters, dated 15 June 1944, and it reiterates the orders already cited; but it is signed by General Keitel, Marshal Keitel, whereas the preceding one was signed "K" and we could not verify who the author of this initial was: 730-PS, which was placed before you under No. 373, is likewise from the Fuehrer's headquarters, still dated 15 June 1944. It is addressed to the Ministry of Foreign Affairs through Mr. Ambassador Ritter. The Tribunal will find it on page 71 in the document book.

This document reproduces the instructions signed "Keitel" in the preceding document, and it is likewise signed by Keitel. We shall place it under No. 374, Document 733-PS, which concerns the treatment which is to be reserved to airmen falling into the hands of the German Army. It is a telephone message. The call is from the Adjutant Marshal of the Reich, Captain Breuer.

D. NELTE (Counsel for Keitel): I assume, Mr. Prosecutor, that you have finished with the question of lynching. In the presentation of this case the words "Orders of Keitel" have been used. The prosecutor has not read these documents. I would be obliged if the prosecutor would produce a document which contains an order, which makes an order of the lynching as it has been claimed by the prosecution. The defendants Keitel and Jodl state and claim that such an order has never been given at these conferences concerning which documents have been produced, and that these documents have never become orders because that has been prohibited by other quarters.

THE PRESIDENT: The documents speak for themselves.

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M. DUBOST: The Tribunal did not want to have the complete reading of these documents which are signed by Keitel. They are not orders, they are projects. That was emphasized when I submitted them to the Tribunal, but in regard to Keitel, page 80 of our Document Book, you will find dated 30 June 1944, with Keitel's visa, a note for a meeting. The purpose was the treatment of enemy terroristic aviators. Herewith, it has the project for written reply by the Minister of Foreign Affairs to the Reich, to the Chief of the OKW - project which is transmitted to the Operational Staff of the Wehrmacht.

Second, and skipping the sub-paragraph: "The Marshal of the Reich. Approved the definition of the terroristic aviator communicated by the OKW as well as the procedure which is proposed therein. This document will be placed before you under No. 375. I did not put before the Tribunal a regular formal order but I brought three documents which, in my opinion, are equivalent to a formal order because with the visa of Keitel we have this note which is signed by him, which states: "The Marshal of the Reich. The definition of a terroristic airman communicated by the OKW as well as the procedure which is proposed." This document bears the visa of Keitel".

We shall now place under No. 376, a document L-154 which has already been placed before you by our American colleagues under No. USA 335. My colleague has read this text in extense. I will merely refer to three lines. That is the second paragraph under three. "It is not possible to take away from popular anger any aircraft flying low, who might be brought down." This is signed by Albert Hoffmann.

Under Deposit No. 376 we shall place document S-686, on page 82 of our document book. This is about the minutes of an interrogation held on 29 December 1945. This was M. Gruener, who was subordinate to M. Wagner, Gauleiter in the Duchy of Baden. In the last lines of this document, Page 82 of our document, Geuener states: #Wagner gives the order, the formal order, to bring down all prisoners taken from the Allied aviations or air forces who might be captured, and in this connection Gauleiter Wagner explained to us that Allied airmen caused great ravages on German territory;

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that he therefore considered that he was acting - that there was involved inhuman warfare, and that under the circumstances any airmen captured should not be considered as prisoners of war and deserved no mercy".

Page 83. It is really 84 at the top of the page, "He stated that Kreisleiters, if the occasion offered it, should not fail themselves to shoot the allied airmen who might be captured. As I have told you, Roehn was already assistant to Wagner but he did not speak. I can make it clear that General Hoffmann, who was the SS Leader of the police for the Southwest Region, was present when the order was given to us by Wagner to bring down allied airmen."

THE PRESIDENT: Where are you reading that?

M. DUBOST: Page 83, second paragraph. This witness, Hugo Gruener, confesses that he participated in the execution of allied airmen.

Going through Rheinweiler, six paragraph: "This took place in October 1944 or November 1944. As I went through Rheinweiler...I noticed that English or American airmen had been fished out of the Rhine River by soldiers. The four airmen were wearing khaki uniforms. They were bareheaded. They were of average height. He did not speak to them because he does not know the English language. The Wehrmacht refused to take them in." That is the third paragraph at the bottom of the page. I am reading: "I have stated to the gendarmes that I had received from Wagner the order to "execute any allied aviator taken prisoner. The gendarmes replied that it was the only thing that could be done. I then decided to execute the four allied prisoners and one of those gendarmes who was present suggested to me as a place of execution the banks of the Rhine."

The next page, page 84, paragraph 1. "Gruener describes the arrangements made by him to assassinate these airmen."

Second paragraph: "He confesses that he killed them with machine gun shots in the back".

"He gives the name of one of his accomplices 'Erich Meissner,' who was a Gestapo agent from Lorrach.

And in the fifth paragraph, he denounces Meissner for having himself

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assassinated an airman at the time when he was getting out of a car and was on his way toward the Rhine. I read: "He murdered them by shotting a machine gun at each of them in the back, after which each prisoner was dragged by the feet and thrown into the Rhine River." This affidavit was received by the Interrogating Magistrate of Strassbourg. The document which we place before you has been signed by the Secretary of the Tribunal as a certified copy: therefore, the orders given by the leaders of the German Government were carried out by the German people.

THE PRESIDENT: M. Dubost, I see that it is five o'clock now, and perhaps you would be able to tell us what your program would be for tomorrow, for the assistance of defense counsel, and also what length you expect the French Prosecution to take.

M. DUBOST: Tomorrow we shall complete the presentation of the question of prisoners of war. We will summarily present to you documents which seem to us to be indispensable in spite of our hearing of witnesses in regard to the camps - only very few documents - but pplying to some of the defendants directly. Then we shall develop how the orders given by the leaders of the German Army led the subordinates to commit acts of terrorism and banditry in France towards the innocent population; towards also the patriots of the Resistance who were not treated as Franc-tiereur but really as common law criminals. We expect to complete tomorrow morning. In the afternoon, my colleague, M. Faure, could give the presentation of this last part of the French charges concerning crimes against human conditions or the human person.

THE PRESIDENT: Are you not able to give us any estimate of the length of the whole of the French Prosecution?

M. DUBOST: I believe that three days will be sufficient for M. Faure. The individual charges will be summarized in one-half day by our colleague M. Mounier, and that will be the end, Sir.

THE PRESIDENT: The Tribunal will adjourn now.

(Whereupon at 1705 hours the Tribunal adjourned to reconvene the following day, Thursday, 31 January 1946, at 1000 hours).